IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14393 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PURNIMABEN JANKILAL SHAH

Versus

SHOBHANABEN WD/O AMARSINH BACHUSINH BHATI

Appearance:

1. Special Civil Application No. 14393 of 2003

MR MA KHARADI for Petitioner No. 1-2

RULE SERVED for Respondent No. 1

MR KV SHELAT for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 01/12/2004

ORAL JUDGEMENT

#. In this petition filed under Article 227 of the

Constitution of India, the petitioners have challenged the legality and validity of the order passed by the learned Civil Judge (Junior Division), Dahod dated 29.1.2003 in Regular Civil Suit No.205 of 1999, by which, the learned trial Court has directed the respondents herein - original plaintiffs to withdraw the aforesaid Regular Civil Suit No.205 of 1999 with a liberty to file a fresh suit.

#. Today, when the matter is called out, Mr.K.V.Shelat, learned advocate appearing on behalf of the respondents has submitted that, in fact, the respondents will not insist for withdrawing the suit with a liberty to file a fresh suit in the facts and circumstances of the case and permission may be restricted to only withdrawal of the aforesaid suit. Mr.Kharadi, learned advocate appearing on behalf of the petitioners has no objection if that is so. In that view of the matter, the order passed by the learned trial Court dated 29.1.2003 in Regular Civil Suit No.205 of 1999 is modified to the extent that the respondents herein - original plaintiffs are permitted to withdraw the aforesaid suit without any liberty in the facts and circumstances of the case.

#. In view of the above, this petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah,J)

(pathan)